

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate
Implementing a Decoupling Mechanism for
Hawaiian Electric Company, Inc., Hawaii
Electric Light Company, Inc., and Maui
Electric Company, Limited

DOCKET NO. 2008-0274

PUBLIC UTILITIES
COMMISSION

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FILED

BLUE PLANET FOUNDATION'S MOTION TO INTERVENE

DECLARATION OF JEFFREY MIKULINA

AND

CERTIFICATE OF SERVICE

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BLUE PLANET FOUNDATION'S MOTION TO INTERVENE

Blue Planet Foundation ("Blue Planet"), by and through its attorneys Schlack Ito Lockwood Piper & Elkind, hereby files its Motion to Intervene in the above-referenced Docket No. 2008-0273 ("Docket").

Blue Planet is a Hawaii public interest organization solely dedicated to supporting and facilitating the adoption of alternative and renewable energy sources in Hawaii, in order to encourage Hawaii's swift transition to a clean energy economy, promote Hawaii as a global leader in renewable energy, and mitigate climate change impacts in Hawaii. In addition to its substantial interests that are reasonably pertinent to the Docket, Blue Planet submits that it has significant organizational resources and expertise to assist the Commission and the parties in a manner that will not broaden the issues or unduly delay the proceedings, thus contributing to the success of the proposed regulatory innovation. Blue Planet therefore respectfully requests the Commission to grant this Motion and allow it to intervene in the proceeding.

I. FACTUAL BACKGROUND

By Order filed October 24, 2008 (“Order”), the State of Hawaii Public Utilities Commission (“Commission”) initiated an investigation to examine implementing a decoupling mechanism for Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, “HECO Companies”) that would modify the traditional model of rate-making for the HECO Companies by separating the HECO Companies’ revenues and profits from electricity sales. Order at 1.

A. October 2008 Energy Agreement.

The Docket seeks to implement a historic agreement designed to accelerate cleaner energy sources, smarter use of energy, and less-costly utility bills. As explained in the Order, on October 20, 2008, the Governor of the State of Hawaii, the State of Hawaii Department of Business, Economic Development and Tourism, the State of Hawaii Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (“Consumer Advocate”), and the HECO Companies entered into a “comprehensive agreement designed to move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward ‘indigenously produced renewable energy and an ethic of energy efficiency.’” *Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies* dated Oct. 20, 2008 at 1 (“Agreement”).

The Agreement includes a commitment by the HECO Companies to modify their traditional rate-making model by implementing a decoupling mechanism designed to “separate a utility’s revenue from changes in energy sales.” Order at 2. Decoupling may encourage the substitution of renewable resources, distributed generation and energy efficiency for the utility’s

fossil fuels production while simultaneously protecting a utility's financial health as these types of programs go into effect. Order at 2-3.

B. Time Frame for Joint Proposal and Decoupling Decision.

The Order sets forth a relatively expedited time frame for a Commission decision on decoupling. Within forty-five days of the Order, or approximately December 8, 2008, the parties shall file a stipulated procedural order setting forth the issues, procedures and schedule for the proceeding. Order at 10. Within sixty days of the date of Order, or approximately December 23, 2008, the HECO Companies and Consumer Advocate shall submit to the Commission a joint proposal on decoupling addressing all factors identified in the Agreement ("Joint Proposal"). *Id.* at 9. The parties stipulated procedural schedule should, to the extent possible, allow the Commission to issue a decision by approximately the summer of 2009. *Id.* at 10.

C. Blue Planet Foundation

Blue Planet Foundation is a public interest 501(c)(3) foundation with headquarters in Honolulu and over 600 registered "Friends of the Blue Planet Foundation." Blue Planet's mission statement is "[t]o change our world's energy culture, to raise global awareness in order to develop and adopt practical programs to implement clean, efficient, and renewable energy and to create a global response to our increasingly urgent climate crisis." Blue Planet Foundation, "Our Mission" at <http://www.blueplanetsummit.org/sub/our-mission.aspx>.

To fulfill its mission, Blue Planet focuses on three related areas. "Energy and Climate" identifies the growing demand for, methods of generation, and choice of fuels as the primary cause of climate change and ecological imbalance. "Hawaii as Clean Energy Model" recognizes that Hawaii's unique blend of attributes makes it an ideal place to become a clean energy model for the world, due to geographical remoteness, the availability of a wide variety of

natural resources, and a cultural heritage of sustainable resource management. Finally, with its “Education” program Blue Planet seeks to engage educators and their students by providing a range of educational materials and media formats, including web content and DVDs for academic, legislative and civic use. *Id.*

In April, 2008, Blue Planet hosted three-day “Global Energy Summit” on Oahu with over seventy-five participants, including some of the world’s leading experts in renewable energy science and policy. As a result of the Global Energy Summit, Blue Planet has professional relationships with these and other experts and leaders in the energy field. Blue Planet Foundation, “About the Founding Summit” *at* <http://www.blueplanetsummit.org/sub/about-the-summit.aspx>.

Participants in the summit and members of Blue Planet’s Board of Directors or Board of Advisors with professional expertise relevant to this proceeding include Stephen Schneider, Ph.D., Stanford University, Member of the U.N. Intergovernmental Panel on Climate Change; William P. Parks, Jr., Deputy Assistant Secretary, Research and Development, U.S. Department of Energy; Maurice H. Kaya, P.E., former Chief Technology Officer, State of Hawaii; Richard E. Rocheleau, Director, Hawaii Natural Energy Institute, University of Hawaii; and Dr. Peter E. Crouch, Dean of the College of Engineering at the University of Hawaii. *See generally* Blue Planet Foundation *at* <http://php.blueplanetsummit.org/index.php>. Blue Planet’s current annual operating budget is sufficient to fund the participation of a limited number of leading experts in the energy field. Declaration of Jeffrey Mikulina at para. 1.

Jeffrey Mikulina is the Executive Director of Blue Planet Foundation. *Id.* at para. 2. Mr. Mikulina participated in meetings of the Hawaii Clean Energy Initiative which prepared the October 2008 Agreement. *Id.* at para. 3. He was previously director of the Sierra

Club, Hawaii Chapter, where he assisted with passing legislation that sets a binding cap on Hawaii's greenhouse gas emissions, makes solar a standard feature on new homes, and provides incentives for renewable energy use. Mr. Mikulina serves as district manager for Vice President Al Gore's Climate Project. *Id.* at para. 4. He earned a Masters of Science degree in engineering from the University of Illinois at Urbana-Champaign studying decision theory related to the adoption of photovoltaic systems on Oahu. *Id.* at para. 5.

II. ARGUMENT

A. Standard for Grant of Intervention.

Pursuant to Hawaii Administrative Rules ("H.A.R.") § 6-61-55(a), a person may move to intervene and become a party by filing a timely written motion stating the facts and reasons for the proposed intervention, and the position and interest of the applicant. *Id.* The motion shall make reference to items (1) through (9) set forth under H.A.R. § 6-61-55(b).

The Commission may grant intervention based upon on "allegations which are reasonably pertinent to and do not broaden the issues already presented." H.A.R. § 6-61-55(d) (emphasis added). Although intervention as a party in a proceeding before the Commission is not a matter of right, but is a matter resting within the sound discretion of the Commission, this rule is "always subject to the essential qualification that this discretion is not to be arbitrarily and capriciously exercised." *In re Hawaiian Electric Co.* 56 Haw. 260, 263, 535 P.2d 1102 (Haw. 1975).

B. The Motion to Intervene Should Be Granted.

The instant Motion should be granted because, as explained herein, its allegations are reasonably pertinent to and do not broaden the issues already presented. H.A.R. § 6-61-55(d).

1. The Nature of the Applicant's Statutory or Other Right to Participate in the Hearing.

Blue Planet's legal right to seek to intervene in this proceeding is based upon the Rules of Practice and Procedure Before the Public Utilities Commission, H.A.R. ch. 6-61-1, *et seq.*, and the Order, which states that any interested entity or community organization may file a motion to intervene in the Docket. Order at 6, 8.

2. The Nature and Extent of the Applicant's Property, Financial, and Other Interest in the Pending Matter.

Blue Planet has a direct interest in the purpose and subject matter of the pending Docket. The purpose of the Docket, as noted above, is to "move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward 'indigenously produced renewable energy and an ethic of energy efficiency.'" Order at 2. More specifically, under the Agreement the HECO Companies commit to decoupling to encourage "the substitution of renewable resources, distributed generation and energy efficiency for the utility's fossil fuels production[.]" *Id.* Blue Planet's stated mission is to "develop and adopt practical programs to implement clean, efficient, and renewable energy." Thus, insofar as the purpose of the Docket is to support and encourage distributed generation and energy efficiency Blue Planet has a direct interest in the purpose of the Docket.

In addition to the Docket's purpose, Blue Planet has a direct interest in the subject matter of the Docket. The subject matter of the Docket consists of an investigative proceeding to examine implementation of a decoupling mechanism for the HECO Companies. Order at 9. Such an examination falls squarely within the scope of Blue Planet's mission. It also falls under the purview of Mr. Mikulina's knowledge and professional experience, and the expertise of the leading experts in renewable energy science and policy, including those who attended the Global Energy Summit. Blue Planet has professional relationships with such experts and sufficient

resources to engage the services of a limited number of such experts to assist the parties in support of the objectives of the Docket. Dec. of J. Mikulina at para. 1.

Blue Planet has a further interest in the subject matter of the Docket insofar as it calls for a relatively expedited time frame. The parties' stipulated procedural order is due approximately December 8, 2008, the Joint Proposal is due approximately December 23, 2008, and the Commission's decision on the issue is proposed for summer 2009. Blue Planet intends for its participation to expedite the proceedings, where possible, by providing supportive documents, information and expert testimony to assist the parties in addressing the issues under investigation.

3. The Effect of the Pending Order as to the Applicant's Interest.

Please see response to No. 2, above.

4. The Other Means Available Whereby the Applicant's Interest May Be Protected.

None.

5. The Extent to Which the Applicant's Interest Will Not Be Represented By Existing Parties.

Blue Planet's interest will not be represented by the existing parties. Although the HECO Companies and the Consumer Advocate commit to certain alternative energy goals under the Agreement, the primary interest of the HECO Companies remains utility investors and ratepayers, and the primary interest of the Consumer Advocate remains consumers. Haw. Rev. Stat. § 269-51. Blue Planet's primary interest differs in that its public interest mission is solely dedicated to promoting the development and use of clean energy in Hawaii, encouraging and supporting Hawaii's leadership as a world model for clean energy, and addressing the issue of climate change by supporting alternative energy.

6. The Extent to Which the Applicant's Participation Can Assist in the Development of a Sound Record.

As an intervenor, Blue Planet can assist the Commission with the development of a sound record to a significant extent. Blue Planet can provide documents, information and testimony from Mr. Mikulina and its retained experts on technical and policy matters critical to the investigation of decoupling.

7. The Extent to Which the Applicant's Participation Will Broaden the Issues or Delay the Proceeding.

Blue Planet's participation will not broaden the issues or unduly delay the proceedings. To the contrary, Blue Planet intends for its participation to expedite the proceedings, where possible, by providing supportive documents, information and expert testimony that assists the parties in clarifying and resolving the issues under investigation.

8. The Extent to Which the Applicant's Interest in the Proceeding Differs from That of the General Public.

Blue Planet's interest differs from that of the general public because it is a Hawaii public interest organization solely dedicated to supporting and facilitating the adoption of alternative and renewable energy sources in Hawaii, in order to encourage Hawaii's swift transition to a renewable energy economy, promote Hawaii as a global leader in renewable energy, and mitigate climate change impacts in Hawaii. *See also* Response to Items 2 and 5, above.

9. Whether the Applicant's Position is in Support or Opposition to the Relief Sought.

Blue Planet strongly supports implementation of a decoupling mechanism for the HECO Companies.

III. CONCLUSION

For all of the foregoing reasons, Blue Planet Foundation respectfully requests the Commission to grant its Motion and any further relief the Commission deems just and proper.

DATED: Honolulu, Hawaii, November 13, 2008.



DOUGLAS A. CODIGA

Attorney for Applicant Blue Planet Foundation

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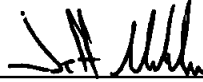
DECLARATION OF JEFFREY MIKULINA

I, JEFFREY MIKULINA, declare and say:

1. Blue Planet Foundation's current annual operating budget is sufficient to fund the participation of a limited number of leading experts in the energy field.
2. I am the Executive Director of Blue Planet Foundation.
3. I participated in meetings of the Hawaii Clean Energy Initiative which prepared the October 2008 Agreement.
4. I was previously director of the Sierra Club, Hawaii Chapter, where I assisted with passing legislation that sets a binding cap on Hawaii's greenhouse gas emissions, makes solar a standard feature on new homes, and provides incentives for renewable energy use. I serve as district manager for Vice President Al Gore's Climate Project.
5. I earned a Masters of Science degree in engineering from the University of Illinois at Urbana-Champaign studying decision theory related to the adoption of photovoltaic systems on Oahu.

I, JEFFREY MIKULINA, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii, November 13, 2008.

A handwritten signature in black ink, appearing to read 'Jeff Mikulina', is positioned above a horizontal line.

JEFFREY MIKULINA

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Motion to Intervene, upon the following parties by causing a copy hereof to be mailed, postage prepaid, and properly addressed to such party as follows:

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DATED: Honolulu, Hawaii, November 13, 2008.



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